

**THE OFFICE ACTION**

The following rejections were noted in the Office Action.

Claims 21 and 24-29 were rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,110,546 to Honda et al.

Claims 22 and 23 were rejected under 35 U.S.C. §103(a) as being unpatentable over Honda et al. in view of U.S. Patent No. 3,646,155 to Scott et al.

The Examiner also set forth a restriction requirement requiring election of one of the inventions set forth in claims 1-20 drawn to a method of forming a composite or claims 21-29 drawn to a composite.

**REMARKS**

The Office Action mailed August 27, 2002 has been given careful consideration by the Applicants. Reconsideration of the application is hereby respectfully requested in view of the above amendments and the following comments.

In response to the Examiner's restriction requirement, Applicants hereby affirm election without traverse to prosecute claims 21-29 drawn to a composite classified in class 428 subclass 515. Such election should be taken as in no way abridging the Applicant's right to prosecute the invention set forth in claims 1-20 in a divisional application.

**I. Claims 21 and 24-29 are not Anticipated by U.S. Patent No. 6,110,546 to Honda et al.**

The Examiner rejected claims 21 and 24-29 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 6,110,546 to Honda et al. ("Honda"). Applicants respectfully disagree that the claims of the present invention are unpatentable in light of Honda, whether the rejection be based on anticipation or nonobviousness.

Honda discloses an automobile weatherstrip including a weatherstrip body formed from a rubber polymer and a decorative layer formed from a thermoplastic elastomer (TPE) and hydrotalcite as a discoloration preventing agent. The rubber polymer of the weatherstrip body can comprise, for example, a sulfur

vulcanize-ethylene- $\alpha$ -olefin non-conjugated-diene copolymer rubber (EODM). The thermoplastic elastomer of the decorative layer can be an olefinic thermoplastic elastomer (TPO) or a styrenic thermoplastic elastomer (TPS). If the TPE is a TPO then the TPO comprises an olefinic resin and an ethylene- $\alpha$ -olefinic copolymer rubber (col. 4, lines 11-13). The olefinic resin can include polypropylene, polyethylene and copolymers of propylene. The ethylene- $\alpha$ -olefinic copolymer rubber of the TPO can include ethylene- $\alpha$ -olefinic copolymer rubbers (EOR). The EOR can have a crosslinked, partially crosslinked or non-crosslinked structure (col. 4, lines 63-67).

Independent claims 20 and 29, from which the remainder of the rejected claims depend, recite a composite extrusion having an at least partially crosslinked thermoplastic decorative layer wherein said thermoplastic is selected from the group consisting of a moisture crosslinkable ethylene- $\alpha$ -olefinic copolymer and a moisture crosslinkable copolymerized ethylene-styrene copolymer bonded to a elastomer rubber main body member.

The cited claims of the present application are not anticipated by the Honda patent. In order to properly reject a claim under §102, each and every element of the claimed subject matter must be disclosed in a single prior art reference. Here, even assuming that the other elements of the present invention and the Honda patent are the same, the composition of the claimed decorative layer is significantly different than the teachings of Honda.

Honda discloses a decorative layer comprising a thermoplastic elastomer composition made from an olefinic thermoplastic elastomer or a styrenic thermoplastic elastomer (col. 3, lines 62-66). The olefinic thermoplastic elastomer comprises an olefinic resin and an ethylene- $\alpha$ -olefinic copolymer rubber (col. 4, lines 11-13). Likewise the styrenic thermoplastic elastomer comprises an olefinic resin and a vinylic-aromatic compound conjugated-diene compound block copolymer or a hydrogenated derivative of the copolymer (col. 5, lines 6-9). Thus, the decorative layer of Honda comprises a two phase thermoplastic elastomer blend of an olefinic resin and an elastomer rubber. This is in contrast to the present invention which includes a decorative layer comprising a crosslinkable

thermoplastic. This crosslinkable thermoplastic is a single phase thermoplastic copolymer to which silane groups have been grafted to effect crosslinking in the presence of water (page 9, line 10 to page 12, line 3).

Thermoplastics are chemically distinct from thermoplastic elastomers. Thermoplastic elastomers are multiphased compositions in which the phases are intimately dispersed. The thermoplastic elastomers of Honda are blends of a hard thermoplastic with a softer elastomer-type polymer. It is clear from Honda that only the rubber phase is crosslinked (col. 4, lines 63 to col. 5, line 5). Thus, Honda fails to disclose a moisture crosslinkable thermoplastic decorative layer.

Because Honda fails to disclose a vehicle weatherstrip having an at least partially crosslinked thermoplastic decorative layer, it fails to anticipate any of claims 21 and 24-29. Likewise, Honda does not suggest a vehicle weatherstrip having an at least partially crosslinked thermoplastic decorative layer so that the claimed subject matter would not have been an obvious modification.

## **II. Claims 22 and 23 are Not Rendered Obvious Over Honda et al. in View of Scott et al.**

The Examiner rejected claims 22 and 23 under 35 U.S.C. §103(a) as being unpatentable over Honda et al. in view of U.S. Patent No. 3,646,155 to Scott et al. ("Scott"). Applicants respectfully disagree that the claims of the present invention are obvious over Honda in view of Scott.

The pertinent portions of the disclosure of Honda are set forth above. Scott discloses a process for crosslinking a polyolefin by grafting silane functional groups to the polymer background and subsequently exposing the product to moisture in the presence of a silanol condensation catalyst. Scott discloses one method in which the moisture crosslinkable thermoplastics in the present invention may be crosslinked.

Even if these two references could be combined, they would not meet all of the recitations of the present claims. As stated above, Honda clearly discloses a different composition for the decorative layer. Honda discloses a thermoplastic elastomer comprising an olefinic resin and a copolymer rubber. In this two phase system, only the copolymer rubber may be crosslinked. The olefinic resin portion is

not crosslinked. In the present application the decorative layer comprises only a single phase crosslinkable thermoplastic copolymer. Honda does not disclose or claim such a thermoplastic elastomer layer. Thus, because neither Honda nor Scott disclose such a crosslinkable thermoplastic decorative layer, the combination fails to render the present claims obvious.

### **III. CONCLUSION**

In view of the forgoing, Applicants submit that claims 21-29 are in condition for allowance. Applicants respectfully request early notification of such allowance. Should any issues remain unresolved, the Examiner is encouraged to contact the undersigned to attempt to resolve any such issues.

If any fee is due in conjunction with the filing of this Amendment and response, Applicants authorize deduction of that fee from Deposit Account 06-0308.

Respectfully submitted,

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VERSION WITH MARKINGS TO SHOW CHANGES MADE

IN THE CLAIMS:

Delete claims 1-20.